



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 22
20 WASHINGTON PL
FL 5
NEWARK, NJ 07102-3127

Agency Website: www.nlr.gov
Telephone: (973)645-2100
Fax: (973)645-3852

April 23, 2021

JOHN ADAMS
JOHN ADAMS LAW FIRM, LLC
1441 ROUTE 36
HAINESPORT, NJ 08036

Re: Fruit, Vegetables, Butter, Eggs, Frozen
Foods, Liquor Grocery and Food
Processors, Drivers, Helpers and
Warehousemen Local 863 of Northern New
Jersey
Case 22-CB-235096

Dear Mr. Adams:

We have carefully investigated and considered your charge that Fruit, Vegetables, Butter, Eggs, Frozen Foods, Liquor Grocery and Food Processors, Drivers, Helpers and Warehousemen Local 863 of Northern New Jersey has violated the National Labor Relations Act.

Decision to Approve Settlement Agreement: Although you were given the opportunity to join in the settlement or to voice any objections to its approval, you have neither executed the settlement nor filed any objections thereto. Accordingly, in view of the terms the Charged Party has agreed to in the attached Settlement Agreement, I have determined that it would not effectuate the purposes of the National Labor Relations Act to institute further proceedings at this time. I am, therefore, approving the Settlement Agreement and refusing to reissue a complaint in this matter.

Charging Party's Right to Appeal: The Charging Party may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: You must file your appeal electronically or provide a written statement explaining why electronic submission is not possible or feasible (Written instructions for the NLRB's E-Filing system and the Terms and Conditions of the NLRB's E-Filing policy are available at www.nlr.gov. See [User Guide](#). A video demonstration which provides [step-by-step instructions](#) and frequently asked questions are also available at www.nlr.gov. If you require additional assistance with E-Filing, please contact e-Filing@nlrb.gov).

You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. If you cannot file electronically, please send the appeal and your written explanation of why you cannot file electronically to the **General Counsel** at the **National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

Appeal Due Date: The appeal is due on **May 7, 2021**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than May 6, 2021. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before May 7, 2021**. The request may be filed electronically through the ***E-File Documents*** link on our website www.nlrb.gov, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after May 7, 2021, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

Confidentiality: We will not honor requests to limit our use of appeal statements or evidence. Upon a request under the Freedom of Information Act (FOIA) by a party during the processing of an appeal, the Agency's FOIA Branch discloses appeal statements, redacted for personal privacy, confidential source protection, or other applicable FOIA exemptions. In the event the appeal is sustained, any statement or material submitted may be introduced as evidence at a hearing before an administrative law judge. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Very truly yours,



Eric Schechter
Acting Regional Director

Enclosure

Fruit, Vegetables, Butter, Eggs, Frozen - 3 -
Foods, Liquor Grocery and Food Processors,
Drivers, Helpers and Warehousemen Local
863 of Northern New Jersey
Case 22-CB-235096

April 23, 2021

cc: LOUIS SANCHEZ
FRUIT, VEGETABLES, BUTTER, EGGS,
FROZEN FOODS, LIQUOR GROCERY
AND FOOD PROCESSORS, DRIVERS,
HELPERS AND WAREHOUSEMEN
LOCAL 863 OF NORTHERN NEW
JERSEY
209 SUMMIT ROAD
MOUNTAINSIDE, NJ 07092

KENNETH I. NOWAK, ESQ.
ZAZZALI, FAGELLA, NOWAK,
KLEINBAUM & FRIEDMAN
570 BROAD STREET, SUITE 1402
NEWARK, NJ 07102

(b) (6), (b) (7)(C)

JOHN CRIRNI, PRESIDENT
COUNTY CONCRETE CORPORATION
50 RAILROAD AVENUE
KENVIL, NJ 07847

BRIAN P. SHIRE, ESQ.
SUSANIN, WIDMAN & BRENNAN, P.C.
1001 OLD CASSATT ROAD, STE 306
BERWYN, PA 19312

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 22**

**FRUIT, VEGETABLES, BUTTER, EGGS, FROZEN
FOODS, LIQUOR GROCERY AND FOOD PROCESSORS,
DRIVERS, HELPERS AND WAREHOUSEMEN
LOCAL 863 OF NORTHERN NEW JERSEY, A/W THE
INTERNATIONAL BROTHERHOOD OF TEAMSTERS**

and

Case 22-CB-235096

(b) (6), (b) (7)(C) AN INDIVIDUAL

**ORDER PARTIALLY DISMISSING COMPLAINT AND
PARTIALLY DISMISSING CHARGE**

Upon a charge being filed in the above-captioned matter by **(b) (6), (b) (7)(C)** a Complaint and Notice of Hearing (“Complaint”) issued on October 31, 2019 alleging that Fruit, Vegetables, Butter, Eggs, Frozen Foods, Liquor Grocery and Food Processors, Drivers, Helpers and Warehousemen Local 863 of Northern New Jersey, a/w The International Brotherhood of Teamsters (“Respondent Union”) has engaged in unfair labor practices in violation of Section 8(b)(1)(A) of the National Labor Relations Act (the “Act”), as amended.

The Complaint in paragraph 15 alleges that Respondent refused to allow nonmember objectors to attend a strategy meeting where contract proposals were solicited from employees in preparation for collective-bargaining negotiations. Because the evidence adduced during the investigation does not support a violation of the Act under current caselaw, the Acting General Counsel declines to pursue this allegation. Therefore, Complaint on this allegation is not warranted at this time.

This matter having been duly considered, it is hereby

ORDERED that the portion of the underlying unfair labor practice charge, as it relates to paragraph 15 of the Complaint is hereby dismissed, and

IT IS FURTHER ORDERED that paragraph 15 of the Complaint is hereby dismissed and all references to paragraph 15 in paragraphs 16 and 17 and the Remedy paragraph of the Complaint are removed.¹

¹ **Charging Party's Right to Appeal:** The Charging Party may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

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You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. If you cannot file electronically, please send the appeal and your written explanation of why you cannot file electronically to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

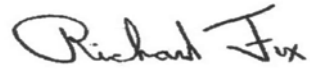
The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

Appeal Due Date: The appeal is due on **April 5, 2021**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than April 4, 2021. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before April 5, 2021**. The request may be filed electronically through the **E-File Documents** link on our website www.nlr.gov, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after April 5, 2021, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

Confidentiality: We will not honor requests to limit our use of appeal statements or evidence. Upon a request under the Freedom of Information Act (FOIA) by a party during the processing of an appeal, the Agency's FOIA Branch discloses appeal statements, redacted for personal privacy, confidential source protection, or other applicable FOIA exemptions. In the event the appeal is sustained, any statement or material submitted may be introduced as evidence at a hearing before an administrative law judge. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Done at Newark, New Jersey this 22nd day of March 2021.

A handwritten signature in black ink that reads "Richard Fox". The signature is written in a cursive style with a large, looped "R" and a stylized "F".

Richard E. Fox
Acting Regional Director
National Labor Relations Board
Region 22
20 Washington Place, 5th Floor
Newark, New Jersey 07102

(2)

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
SETTLEMENT AGREEMENT

IN THE MATTER OF

Fruit, Vegetables, Butter, Eggs Frozen Food, Liquor Grocery and Food Processors, Drivers, Helpers and Warehousemen. Local 863 of Northern New Jersey. Case 22-CB-235096

Subject to the approval of the Acting Regional Director for the National Labor Relations Board, the Charged Party and the Charging Party **HEREBY AGREE TO SETTLE THE ABOVE MATTER AS FOLLOWS:**

POSTING OF NOTICE — After the Acting Regional Director has approved this Agreement, the Acting Regional Office will send copies of the approved Notice to the Charged Party in English and in additional languages if the Acting Regional Director decides that it is appropriate to do so. A responsible official of the Charged Party will then sign and date those Notices and immediately post them in locations at the Charged Party's Mountainside, New Jersey facility where notices to members are customarily posted. The Charged Party will keep all Notices posted for 60 consecutive days after the initial posting. Further, if the Charged Party maintains bulletin boards at the facility of the Employer where the alleged unfair labor practices occurred, the Charged Party shall also post Notices on each such bulletin board during the posting period. The Acting Regional Director will send copies of the signed Notices to the Employer whose employees are involved in this case, and request that the Notices be posted in prominent places in the Employer's facility for 60 consecutive days from the date of posting.

COMPLIANCE WITH NOTICE — The Charged Party will comply with all the terms and provisions of said Notice.

NON-ADMISSION CLAUSE - By entering into this Agreement, the Charged Party does not admit to violating the Act.

SCOPE OF THE AGREEMENT — This Agreement settles only the allegations in the above-captioned case(s), including all allegations covered by the attached Notice to Employees and Members made part of this agreement, and does not settle any other case(s) or matters. It does not prevent persons from filing charges, the Acting General Counsel from prosecuting complaints, or the Board and the courts from finding violations with respect to matters that happened before this Agreement was approved regardless of whether Acting General Counsel knew of those matters or could have easily found them out. The Acting General Counsel reserves the right to use the evidence obtained in the investigation and prosecution of the above-captioned case(s) for any relevant purpose in the litigation of this or any other case(s), and a judge, the Board and the courts may make findings of fact and/or conclusions of law with respect to said evidence.

PARTIES TO THE AGREEMENT — If the Charging Party fails or refuses to become a party to this Agreement and the Acting Regional Director determines that it will promote the policies of the National Labor Relations Act, the Acting Regional Director may approve the settlement agreement and decline to issue or reissue a Complaint in this matter. If that occurs, this Agreement shall be between the Charged Party and the undersigned Acting Regional Director. In that case, a Charging Party may request review of the decision to approve the Agreement. If the Acting General Counsel does not sustain the Acting Regional Director's approval, this Agreement shall be null and void.

AUTHORIZATION TO PROVIDE COMPLIANCE INFORMATION AND NOTICES DIRECTLY TO CHARGED PARTY — Counsel for the Charged Party authorizes the Regional Office to forward the cover letter describing the general expectations and instructions to achieve compliance, a conformed settlement, original notices and a certification of posting directly to the Charged Party. If such authorization is granted, Counsel will be simultaneously served with a courtesy copy of these documents.

Yes CP
Initials

No _____
Initials

PERFORMANCE — Performance by the Charged Party with the terms and provisions of this Agreement shall commence immediately after the Agreement is approved by the Acting Regional Director, or if the Charging Party does not enter into this Agreement, performance shall commence immediately upon receipt by the Charged Party of notice that no review has been requested or that the Acting General Counsel has sustained the Acting Regional Director. The Charged Party agrees that in case of non-compliance with any of the terms of this Settlement Agreement by the Charged Party, and after 14 days' notice from the Acting Regional Director of the National Labor Relations Board of such non-compliance without remedy by the Charged Party, the Acting Regional Director will issue a Complaint that includes the allegations covered by the Notice to Employees and Members, as identified above in the Scope of Agreement section, as well as filing and service of the charge(s), commerce facts necessary to establish Board jurisdiction, labor organization status, appropriate bargaining unit (if applicable), and any other allegations the Acting General Counsel would ordinarily plead to establish the unfair labor practices. Thereafter, the Acting General Counsel may file a Motion for Default Judgment with the Board on the allegations of the Complaint. The Charged Party understands and agrees that all of the allegations of the Complaint will be deemed admitted and that it will have waived its right to file an Answer to such Complaint. The only issue that the Charged Party may raise before the Board will be whether it defaulted on the terms of this Settlement Agreement. The Acting General Counsel may seek, and the Board may impose, a full remedy for each unfair labor practice identified in the Notice to Employees and Members. The Board may then, without necessity of trial or any other proceeding, find all allegations of the Complaint to be true and make findings of fact and conclusions of law consistent with those allegations adverse to the Charged Party on all issues raised by the pleadings. The Board may then issue an Order providing a full remedy for the violations found as is appropriate to remedy such violations. The parties further agree that a U.S. Court of Appeals Judgment may be entered enforcing the Board Order ex parte, after service or attempted service upon Charged Party at the last address provided to the Acting General Counsel.

NOTIFICATION OF COMPLIANCE — Each party to this Agreement will notify the Acting Regional Director in writing what steps the Charged Party has taken to comply with the Agreement. This notification shall be given within 5 days, and again after 60 days, from the date of the approval of this Agreement. If the Charging Party does not enter into this Agreement, initial notice shall be given within 5 days after notification from the Acting Regional Director that the Charging Party did not request review or that the Acting General Counsel sustained the Acting Regional Director's approval of this agreement. No further action shall be taken in the above captioned case(s) provided that the Charged Party complies with the terms and conditions of this Settlement Agreement and Notice.

Charged Party Fruit, Vegetables, Butter, Eggs Frozen Food, Liquor Grocery and Food Processors, Drivers, Helpers and Warehousemen. Local 863 of Northern New Jersey	Charging Party (b) (6), (b) (7)(C)
By: Name and Title Date <i>Alphonse Rispoli</i> ALPHONSE RISPOLI 3-17-2021 Print Name and Title below SECRETARY - TREASURER	By: Name and Title Date (b) (6), (b) (7)(C) An Individual
Recommended By: Date NANCY SLAHETKA Field Attorney	Approved By: Date ERIC SCHECHTER Acting Regional Director, Region 22

CP

(To be printed and posted on official Board notice form)

FEDERAL LAW GIVES YOU THE RIGHT TO:

- Form, join, or assist a union;
- Choose a representative to bargain with your employer on your behalf;
- Act together with other employees for your benefit and protection;
- Choose not to engage in any of these protected activities.

WE WILL NOT do anything to prevent you from exercising the above rights.

WE WILL NOT in any like or related manner restrain or coerce you in the exercise of your rights under Section 7 of the Act.

WE WILL NOT fail to inform objecting nonmember unit employees under *Communications Workers v. Beck*, 487 U.S. 735 (1988), from whom we seek to collect dues and fees, of the following information at the objection stage: the major categories of our expenditures, the percentage of each category that we consider chargeable and nonchargeable, a detailed explanation of how we calculate our allocation of expenditures, and the amounts of income shared with our two affiliates: The International Brotherhood of Teamsters and Teamsters Joint Council No. 73. For the International Brotherhood of Teamsters, we will not fail to inform objecting nonmember unit employees of the major categories of expenditures it considers chargeable and nonchargeable, the dollar amount of each category it considers chargeable and nonchargeable, and an explanation of how the International calculates its allocation of expenditures, through providing a copy of the annual International Brotherhood of Teamsters Consolidated Statement of Expenses and Allocation of Expenses Between Chargeable Expenses and Non-Chargeable Expenses, which the International distributes to all locals.

WE WILL make all per capita fees paid to the Teamsters Joint Council No. 73 nonchargeable unless and until the Joint Council provides an annual audited report containing the major categories of expenditures the Joint Council considers chargeable and nonchargeable, the percentage or dollar amount of each category the Joint Council considers chargeable and nonchargeable, and an explanation of how the Joint Council calculates its expenditure allocations, at which point we will provide that information and charge the appropriate chargeable amount of per capita fees to objecting nonmember unit employees.

WE WILL provide (b) (6), (b) (7)(C) with the following information for 2018 and 2019: 1) the major categories of our expenditures, the percentage of each category that we considered chargeable and nonchargeable, a detailed explanation of how we calculated the allocation of expenditures; the amounts of income shared with our two affiliates: The International

Brotherhood of Teamsters and Teamsters Joint Council No. 73; and 2) the annual International Brotherhood of Teamsters Consolidated Statement of Expenses and Allocation of Expenses Between Chargeable Expenses and Non-Chargeable Expenses, the same report provided to all locals, which provides the major categories of expenditures, the dollar amounts considered chargeable and nonchargeable, and a detailed explanation of how the International calculates its allocation of expenditures.

**Fruit, Vegetables, Butter, Eggs Frozen Food, Liquor
Grocery and Food Processors, Drivers, Helpers and
Warehousemen. Local 863 of Northern New Jersey**

(Labor Organization)

Dated: 3-19-2021 By: Alphonse [Signature] SECRETARY-TREASURER
(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. We conduct secret-ballot elections to determine whether employees want union representation and we investigate and remedy unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below or you may call the Board's toll-free number 1-844-762-NLRB (1-844-762-6572). Hearing impaired callers who wish to speak to an Agency representative should contact the Federal Relay Service (link is external) by visiting its website at <https://www.federalrelay.us/tty> (link is external), calling one of its toll free numbers and asking its Communications Assistant to call our toll free number at 1-844-762-NLRB.

20 WASHINGTON PL
FL 5
NEWARK, NJ 07102-3127

Telephone: (973)645-2100
Hours of Operation: 8:30 a.m. to 5 p.m.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the above Regional Office's Compliance Officer.